

organize the fourth, twelfth, seventeenth, thirty-first and thirty-fifth judicial districts, and to fix the time for holding the courts therein; and to change the times of holding the district courts in the seventh, thirteenth, fourteenth, twenty-fourth, twenty-ninth and thirty-fourth judicial districts; and in the counties of Kaufman, Sabine, San Augustine and Nacogdoches," and recommend the passage of the bill reported.

HARRIS, Chairman.

Substitute read first time.

Senator Patton offered the following resolution:

*Resolved*, That hereafter during the present session, no member of the Senate shall speak more than twice upon any subject, and not longer than fifteen minutes at a time, except by unanimous consent of the Senate.

Which was ordered to lie over under the rules.

Senator Martin, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,  
AUSTIN, February 23, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared substitute to Senate joint resolution No. 2, to amend sections 3, 4 and 6, of article 7 of the Constitution of the State of Texas, and find the same correctly engrossed.

MARTIN, Chairman.

On motion of Senator Houston, the Senate adjourned till 10 o'clock a. m., to-morrow.

### THIRTY-NINTH DAY.

SENATE CHAMBER, }  
AUSTIN, February 24, 1883. }

The Senate met pursuant to adjournment.

The President in the chair.

Roll called. Quorum present.

Prayer by the Chaplain.

On motion of Senator Traylor, the reading of the journal of yesterday was dispensed with, and the same adopted.

Senator Peacock offered a petition from the citizens of Bowie county, for submission of prohibition amendment to the Constitution.

Referred to Committee on Constitutional Amendments.

Senator Gooch offered a memorial of certain citizens of Cherokee county, asking the approval of the penitentiary leases, forwarded about February 17, 1883.

Referred to Committee on Penitentiaries.

Senator Matlock, chairman of Committee on Public Lands and Land Office, submitted the following report:

COMMITTEE ROOM,  
AUSTIN, February 24, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Public Lands and Land Office, to whom was referred Senate bill No. 291, entitled "An act for the relief of J. W. Chowning, H. C. Chowning, J. S. Summers, W. P. Bean, R. F. Jones, J. A. Creager, J. P. Wilson, G. W. Darby, C. M. Byars, J. A. Stingley, T. W. Linkhart & Co., T. W. Robison and the heirs of Uel Musick, deceased," have had the same under consideration, and find that the proper notice of application for the passage of the act has been given by publication, and have carefully examined the bill, and instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

MATLOCK, Chairman.

Bill read first time.

Senator Kleberg, for Senate committee to act with a like committee from the House, to visit the Alamo and inspect the same, with a view of purchase by the State of said property, submitted the following report and accompanying resolution:

COMMITTEE ROOM,  
AUSTIN, February 21, 1883.

Hon. Marion Martin, President of the Senate, and Hon. C. R. Gilham, Speaker of the House of Representatives:

Your committee appointed to visit San Antonio, and inspect the

Alamo, and the Milam resting place, and to secure information in regard thereto, and the graves of Fannin's and King's men, who fell at Goliad and Refugio, beg leave to submit the following report:

In accordance with instructions contained in the resolution on the seventeenth instant, your committee visited the city of San Antonio. We inspected the Alamo property, and found that the Alamo church building proper has a frontage of 72 feet and two inches in one of the most valuable blocks in the city. Upon investigation we found that unimproved property in the same vicinity is valued, and being rendered, at \$200 per foot front.

This information being derived from various real estate agents and the owners of real estate, other than the Alamo property. In the light of these facts your committee estimated that the land and the improvements thereon standing are well worth twenty thousand dollars. In this connection, your committee would suggest that the city authorities of San Antonio, and the members of the old Alamo monumental association agreed with your committee that they would unite in supervising the Alamo, and since the return of committee to the Capitol, the mayor of the city of San Antonio has officially notified his Excellency, the Governor of the State, of the passage, at a regular meeting of the city council of San Antonio, of the following resolution, to-wit:

"WHEREAS, The State of Texas is contemplating the purchase of the property known as the 'Alamo,' for the purpose of preserving it as a monument sacred to the memory of the martyrs who so gallantly perished in the defense of the liberties of their country, and the question of the care, preservation and guardianship of said property having arisen; now, therefore, in order that for all future time the State of Texas shall be free from all expense, charge, cost, or liability for the care and preservation of said property; be it

*Resolved by the city council of the city of San Antonio*, That the city of San Antonio agrees and binds itself to take care of, preserve and keep the said Alamo in good order and repair, without cost, charge, or liability to the State of Texas, and to hold the same subject at all times to any future legislation of the State of Texas; and that a copy of these resolutions, duly authenticated, be forwarded at once to his Excellency, Governor John Ireland."

In view of the facts above recited, your committee respectfully recommend that twenty thousand dollars be appropriated out of any funds in the treasury, not otherwise appropriated, the same to be devoted to the purchase by the State of the above described Alamo property.

Your committee would further state that they visited also, at San Antonio, the grave of Milam.

Your committee would further report that, from information received as to the condition of the cemeteries at Goliad and Refugio, it is such as imperatively demands public attention, and we would recommend a liberal appropriation for enclosing these resting places of the dead heroes of Texas, and for the erection of monuments to their memory.

Your committee report further, that they are in possession of letters assuring us that the town of Goliad will donate to the State all necessary grounds upon which to erect a monument, and to fully encompass the cemetery at Goliad, and will preserve the enclosure and monument, in the event said appropriation is made.

Your committee recommend that the resolution accompanying this report be adopted.

G. W. MERRIWETHER,  
M. H. TOWNSEND,  
W. T. ARMISTEAD,  
House Committee.  
R. KLEBERG,  
J. R. FLEMING,  
Senate Committee.

*Be it resolved by the Legislature of the State of Texas*, That the Governor, Attorney-General and Commissioner of Insurance, Statistics and History be and they are hereby created a board for the purpose of securing a good title to said Alamo; and if a good and valid title is made to the State, they are hereby authorized, for and on behalf of the State of Texas, to purchase said property for the sum of (\$20,000) twenty thousand dollars; and, be it further

*Resolved*, That the Committee on Finance be and are hereby instructed to report an appropriation of (\$20,000) twenty thousand dollars in the general appropriation bill, to carry out the object of this resolution.

*Resolved, furthermore*, That after the purchase of the Alamo property, it shall be under the control of the Commissioner of Insurance, Statistics and History, whose duty it shall be to make all necessary arrangements with the city authorities of San Antonio, for its proper preservation and maintenance, free of cost to the State.

*Be it resolved by the Legislature of the State of Texas*, That there be appropriated (\$3000) three thousand dollars to enclose the cemetery where Colonel Fannin and men are buried, and to erect a suitable monument to their memory, at Goliad.

*And be it resolved further,* That there be appropriated (\$2000) two thousand dollars to erect a monument to the memory of Captain King and men, at Refugio.

And that the county commissioners of the respective counties above designated constitute a committee to contract for said monuments and enclosures, and to superintend the work.

*And be it further resolved,* That the Committee on Finance be, and are hereby, instructed to report an appropriation of (\$5000) five thousand dollars, in the general appropriation bill, to carry out the object of this resolution.

Senator Johnson of Collin introduced a bill to be entitled "An act to require the record of official and other bonds in which the State or county is entitled."

Referred to Committee on State Affairs.

Also, a bill to be entitled "An act requiring accounts against the State to be itemized and sworn to before payment."

Referred to Judiciary Committee No. 2.

Senator Farrar introduced a bill to be entitled "An act to amend article 478, of chapter 9, title 17, of the Revised Statutes of Texas."

Referred to Judiciary Committee No. 1.

Senator Traylor introduced a bill to be entitled "An act to authorize the Comptroller of Public Accounts to receive taxes due on real estate from the year 1871 to 1876, inclusive."

Referred to Committee on Finance.

Senator Buchanan introduced a bill to be entitled "An act for the relief of the heirs of Sidney Smith, deceased."

Referred to Committee on Public Lands.

Senator Shannon offered the following resolution:

*Resolved by the Senate, the House of Representatives concurring,* That the Eighteenth Legislature of the State of Texas do adjourn "without day," at 12 o'clock m., on the ninth day of March, A. D. 1883.

Which was ordered to lie over under the rules.

Senate bill No. 269, being the land bill, under consideration on adjournment yesterday, was taken up as unfinished business, the amendment of Senator Farrar pending.

Senator Getzendaner offered the following amendment to the amendment:

Amend by striking out the words "and orphan."

Lost.

Senator Terrell offered the following amendment to Senator Farrar's amendment:

"Provided, that the university and asylum lands may be leased without classification, if the board hereby created shall think it best to so dispose of them."

Lost by the following vote:

YEAS—9.

Chesley,	Johnston of Shelby,	Perry,
Farrar,	Martin,	Pfeuffer,
Getzendaner,	Peacock,	Terrell.

NAYS—14.

Buchanan,	Gooch,	Patton,
Davis,	Harris,	Shannon,
Evans,	Johnson of Collin,	Stratton,
Fleming,	Kleberg,	Traylor.
Fowler,	Matlock,	

Senator Farrar's amendment was adopted.

Senator Farrar offered to further amend as follows:

Amend caption of the bill by adding the words "or Lunate, Blind, Deaf and Dumb and Orphan Asylum," after the word university.

Adopted.

Senator Chesley offered the following amendment:

Amend section 4, by adding to the section the following:

"Provided, That in cases where the minimum herein fixed for watered and unwatered sections is so high as to make a sale impracticable, the land board, after a thorough investigation of the facts, may, in their discretion, reduce the minimum price to any sum not less than \$1 for unwatered sections and \$2 for watered sections.

*"Provided, further,* That should said land board in any instance ascertain that any of the minimum prices herein fixed are too low, they may, in their discretion raise the same."

Lost.

Senator Traylor offered the following amendment:

Add the following to section 14: "And the ownership of all minerals on all lands hereafter sold shall be reserved, and shall remain in the common schools, and no preference right of purchase, on account of occupancy of land not already sold, shall extend to, or include, any minerals."

Adopted by the following vote:

YEAS—18.

Buchanan,	Getzendaner,	Martin,
Chesley,	Gooch,	Patton,
Cooper,	Harris,	Peacock,
Evans,	Houston,	Pfeuffer,
Fleming,	Johnson of Collin,	Terrell,
Fowler,	Kleberg,	Traylor.

NAYS—9.

Collins,	Johnston of Shelby,	Randolph.
Davis,	Matlock,	Shannon,
Farrar,	Perry,	Stratton.

Senator Davis offered the following substitute for section 14:

Strike out section 14 and insert "The minerals on all lands sold or leased under this act are reserved by the State for the use of the fund to which the land now belongs."

Senator Traylor offered the following amendment to amendment last adopted:

Add after the word "schools," "asylum and university funds."

Adopted.

Senator Davis' substitute adopted by the following vote:

YEAS—18.

Collins,	Houston,	Patton,
Davis,	Johnson of Collin,	Peacock,
Farrar,	Johnston of Shelby,	Perry,
Fleming,	Kleberg,	Pfeuffer,
Fowler,	Martin,	Randolph,
Getzendaner,	Matlock,	Shannon.
Harris,		

NAYS—7.

Buchanan,	Evans,	Terrell,
Chesley,	Gooch,	Traylor.
Cooper,		

Senator Davis offered the following amendment:

Strike out "actual settlers," in sixth line, page 2, and insert "persons who were, on the first day of January, 1883, actual settlers upon said lands, and have since been actual settlers."

Adopted.

Senator Matlock offered to amend section 5, by striking out the words "by law," in line 8, and inserting "by the law in force at the time they settled upon them."

Lost.

Senator Traylor offered the following amendment:

Amend section 3, line 10, by inserting "permanent" between the words "have" and "water."

Also, section 4, page 2, line 1, insert "permanent" before "water."

Adopted.

Senator Matlock offered the following amendment:

Strike out, in section 9, the word "one-thirtieth" wherever it occurs, and insert "one-fortieth;" and strike out "five per cent," and insert "four per cent."

Lost.

Senator Martin offered the following amendment:

Amend section 8, by adding: "Should the person advancing the sum of money for advertising the bid, as above provided, not become the purchaser of the land bid for,

said money shall be returned to him, and collected from the purchaser."

Adopted.

Senator Davis offered the following amendment:

Strike out all after "where," in section 17.

Senator Houston raised the point of order, that a similar amendment had been defeated on the same stage of the bill.

Overruled by the President, and amendment lost by the following vote:

YEAS—5.

Davis,	Martin,	Randolph.
Johnson of Collin,	Pfeuffer,	

NAYS—21.

Buchanan,	Fowler,	Matlock,
Chesley,	Getzendaner,	Patton,
Collins,	Gooch,	Peacock,
Cooper,	Harris,	Shannon,
Evans,	Houston,	Stratton,
Farrar,	Johnston of Shelby,	Terrell,
Fleming,	Kleberg,	Traylor.

Senator Gooch moved to reconsider the vote by which the amendment of Senator Traylor, with regard to permanent water, was adopted.

Motion lost.

Senator Stratton offered the following amendment:

Amend section 17 by adding at the end thereof: "No actual settler on lands leased from the State shall pasture more stock on lessee's lands than three head to every acre of ground actually cultivated by such actual settler."

Lost.

Senator Traylor offered the following amendment:

Amend section 8, line 4, by adding the following after the word "sell:" "Which application shall be signed by the purchaser, or if by an agent, such agent shall present a written authority properly authenticated."

Lost.

Senator Peacock offered the following amendment to the amendment of Senator Gibbs, adopted yesterday:

Amend section 17 by adding to the amendment of Senator Gibbs, already adopted by the Senate, the following: "And if at the sale a person other than the applicant shall purchase the land, the person purchasing shall pay for the improvements placed upon the same by the applicant for purchase."

Senator Fleming moved the previous question on amendment and engrossment of the bill.

Motion seconded, and main question ordered.

Senator Peacock's amendment was lost by the following vote:

YEAS—13.

Chesley,	Houston,	Peacock,
Collins,	Johnston of Shelby,	Shannon,
Fleming,	Kleberg,	Terrell,
Fowler,	Matlock,	Traylor.
Gooch,		

NAYS—14.

Buchanan,	Getzendaner,	Patton,
Cooper,	Harris,	Perry,
Davis,	Johnson of Collin,	Randolph,
Evans,	Jones,	Stratton.
Farrar,	Martin,	

Bill ordered engrossed by the following vote:

YEAS—23.

Buchanan,	Getzendaner,	Matlock,
Chesley,	Gooch,	Patton,
Collins,	Harris,	Peacock,
Cooper,	Houston,	Perry,
Evans,	Johnson of Collin,	Shannon,
Farrar,	Johnston of Shelby,	Terrell,
Fleming,	Kleberg,	Traylor.
Fowler,		

NAYS—5.

Davis,	Martin,	Randolph.
Jones,	Pfeuffer,	

Senators Houston and Fleming gave the following reasons for voting to engross Senate bill No. 269, with regard to leasing and selling the school lands.

We voted for the bill, because the majority of the Senate have overruled our views with reference to the disposition of these lands, and we are willing to submit to the provisions of this bill, as better than a return to the former laws on the subject, though, in our judgment, it is unwise in many of its provisions.

HOUSTON,  
FLEMING.

Senator Gooch moved to suspend rules and place bill on its third reading.

Adopted by the following vote:

YEAS—21.

Buchanan,	Getzendaner,	Kleberg,
Chesley,	Gooch,	Matlock,
Collins,	Harris,	Peacock,
Cooper,	Houston,	Perry,
Farrar,	Johnson of Collin,	Shannon,
Fleming,	Johnston of Shelby,	Terrell,
Fowler,	Jones,	Traylor.

NAYS—5.

Davis,	Martin,	Randolph.
Evans,	Pfeuffer,	

Bill read third time.

Senator Gooch offered the following amendment:

SECTION 20. The fact that there is no law authorizing the sale and lease of the land herein for a sufficient price under fair competition; and the fact that this measure may fail, if it is delayed, to come up in regular order, creates an imperative public necessity and emergency that the rule requiring this bill to be read on three several days be suspended, and it is suspended; and that this act shall take effect from and after its passage, and it is so enacted.

Senator Davis offered the following amendment to the pending amendment:

Strike out all that makes the act take effect from and after its passage.

Lost.

Senator Gooch's amendment adopted by the following vote:

YEAS—25.

Buchanan,	Gooch,	Matlock,
Chesley,	Harris,	Peacock,
Collins,	Houston,	Perry,
Cooper,	Johnson of Collin,	Pfeuffer,
Davis,	Johnston of Shelby,	Randolph,
Evans,	Jones,	Shannon,
Farrar,	Kleberg,	Terrell,
Fleming,	Martin,	Traylor.
Fowler,		

NAYS—none.

The President signed substitute Senate bill No. 41, "An act to provide for the payment of fees to county judges and justices of the peace, sheriffs, constables, district and county attorneys, and district clerks for services rendered in certain felony cases."

Also, substitute Senate bill No. 108, "An act to amend title 11, chapter 3, of an act entitled 'an act to adopt and establish the Revised Civil Statutes of Texas,' passed February 29, 1879."

Senator Terrell offered the following amendment to the pending bill:

Add to section 6, "every attempt to evade the limitations of this act as to the amount of land one may purchase, either by using the name of another, or by any other device, shall be deemed fraudulent, and the fraud may be shown and the purchase cancelled by the State, at any time before the issuance of patents."

Adopted by the following vote:

## YEAS—19.

Buchanan,	Gooch,	Peacock,
Chesley,	Harris,	Perry,
Cooper,	Houston,	Randolph,
Evans,	Johnson of Collin,	Shannon,
Farrar,	Kleberg,	Terrell,
Fleming,	Martin,	Traylor.
Fowler,		

## NAYS—6.

Collins,	Getzendaner,	Jones,
Davis,	Johnston of Shelby,	Matlock.

Senator Davis offered the following amendment:

Strike out "two," in line 5, page 5, and insert "four."

Senator Matlock moved the previous question on the amendment and bill.

Motion seconded and main question ordered.

The amendment was lost by the following vote, it requiring a two-thirds vote to amend a bill on its third reading:

## YEAS—14.

Chesley,	Getzendaner,	Peacock,
Davis,	Harris,	Randolph,
Evans,	Houston,	Terrell,
Fleming,	Johnson of Collin,	Traylor.
Fowler,	Martin,	

## NAYS—12.

Buchanan,	Johnston of Shelby,	Patton,
Collins,	Jones,	Perry,
Farrar,	Kleberg,	Pfeuffer,
Gooch,	Matlock,	Shannon.

The bill passed by the following vote:

## YEAS—23.

Buchanan,	Gooch,	Patton,
Chesley,	Harris,	Peacock,
Collins,	Houston,	Perry,
Evans,	Johnson of Collin,	Randolph,
Farrar,	Johnston of Shelby,	Shannon,
Fleming,	Kleberg,	Terrell,
Fowler,	Matlock,	Traylor.
Getzendaner,		

## NAYS—4.

Davis,	Jones,	Pfeuffer.
Martin,		

The following reasons for voting "aye" on the passage of the bill were ordered spread upon the journal:

We vote "aye" on the passage of the bill because we believe it to be the best that we can get. While we do not approve of any of the lease provisions in the bill, nor do we believe the sale of these lands should have been placed in the hands of a board, still we are of the opinion that unless the bill is passed with these features in it, no bill will be passed at this session of the Legislature. Rather than have no law for the sale of these lands, we accept this as a compromise.

A. L. MATLOCK,  
F. L. JOHNSTON.

A message was received from the House announcing the passage by that body of Senate bill No. 10, "An act to amend article 180, chapter 1, title 7, of the Penal Code of the State of Texas."

Senate joint resolution No. 23, being the second special order for the hour, "A joint resolution amending section 10, article 11 of the Constitution, so as to authorize incorporated cities and towns, and counties and school districts or communities, under certain circumstances, to levy and collect a special ad valorem tax for the support of the public free schools, in addition to the pro rata available school fund received from the State," was taken up and read second time, with majority and minority reports.

Senator Davis moved to substitute the minority for majority report.

Senator Houston offered the following amendment:

Add to line 14, "and the Legislature shall have power to pass local or special laws regulating the formation of school districts, and the levying of taxes therein, within the provisions of this section, without the necessity of ad-

vertisement, under the rules for the passage of general laws."

Amendment temporarily withdrawn.

Pending discussion of the question by Senator Davis, Senator Fleming moved to adjourn till 3 o'clock this afternoon.

Senator Houston moved to amend by substituting "Monday at 10 o'clock," for "this afternoon."

Adopted, and motion as amended adopted, and Senate adjourned till Monday morning at 10 o'clock.

## FORTIETH DAY.

SENATE CHAMBER,  
AUSTIN, TEXAS, February 26, 1883. }

Senate met pursuant to adjournment.

President in the chair.

Roll called. Quorum present.

Prayer by the Chaplain.

On motion of Senator Buchanan, the reading of Saturday's journal was dispensed with, and the same adopted.

Senator Terrell, chairman of Judiciary Committee No. 1, submitted the following reports:

COMMITTEE ROOM,  
AUSTIN, February 26, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 300, entitled "An act to amend article 478, of chapter 9, title 17, of the Revised Statutes of Texas," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass, because another bill, accomplishing the object sought to be accomplished, has been reported favorably.

All of which is respectfully submitted.

TERRELL, Chairman.

Bill read first time.

COMMITTEE ROOM,  
AUSTIN, February 26, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 159, entitled "An act to amend article 1048, of title 26, chapter 8, and article 1418, of title 29, chapter 19, of the Revised Civil Statutes of the State of Texas," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass.

The bill proposes to make the judgment of the Supreme Court conclusive on all questions of law and fact presented, and to prohibit on new trial after reversal any inquiry as to facts once decided on appeal.

All of which is respectfully submitted.

TERRELL, Chairman.

Bill read first time.

COMMITTEE ROOM,  
AUSTIN, February 26, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 112, entitled "An act to amend 'an act to protect mechanical laborers and operatives on railroads against the failures of owners, contractors and sub-contractors or agents to pay their wages when due, and to provide a lien for such wages,' approved February 18, 1879, by adding thereto section 3a," have carefully examined the same and instruct me to report the same back with the recommendation that it do not pass.

It proposes to give to the term "equipments" a definition which, as applicable to railways, would make all fixtures on the realty personal property. It is not believed that any existing evil requires such legislation.

All of which is respectfully submitted.

TERRELL, Chairman.

Bill read first time.

COMMITTEE ROOM,  
AUSTIN, February 26, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 260, entitled "An act to prohibit elective officers and attorneys at law from becoming sureties on bonds and recognizances,"